

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BOGDAN LIZAK,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 08-C-1930
	)	
GREAT MASONRY, INC., and	)	Judge Coar
KRZYSZTOF MENDYS,	)	Magistrate Judge Nolan
	)	
Defendants.	)	

**DEFENDANTS' MOTION TO DISMISS COUNT VI OF  
THE FIRST AMENDED COMPLAINT**

Defendants, Great Masonry, Inc. ("Great Masonry") and Krzysztof Mendys ("Mendys"), through counsel, John J. Lynch of the law firm of James L. Kopecky, P.C., hereby request that this honorable Court enter an Order dismissing Count VI of the First Amended Complaint pursuant to FRCP 12(b)(6) for failure to state a claim upon which relief can be granted.

Count VI purports to state a claim for common law retaliatory discharge in violation of Illinois public policy. Said claim is preempted by, *inter alia*, the Illinois Whistleblower Act, 740 ILCS 174/1 *et seq.*

Additionally, Plaintiff has attempted to bring Count VI against both Great Masonry and Mendys, although the case law is clear that such a claim cannot lie against an individual defendant. Although Defendants pointed this out in their Memorandum of Law in support of their Motion to Dismiss Count VI of the original Complaint, Plaintiff's First Amended Complaint continues to seek relief on Count VI as against Mendys.

WHEREFORE, Defendants respectfully request that this honorable Court enter an Order dismissing Count VI of the First Amended Complaint and grant such other relief as this Court

may deem just and appropriate.

August 29, 2008

Respectfully submitted,

Great Masonry, Inc. and Krzysztof Mendys

By: s/John J. Lynch  
John J. Lynch  
One of Defendants' attorneys

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